

New Jersey Public Broadcasting Authority

Meeting of the Board of Commissioners

July 23, 2009 2:45 p.m.

NJN Studio, Trenton, NJ

MINUTES

Stephanie Hoopes Halpin, Presiding
NJPBA Two Hundred Forty Seventh Meeting

Minutes of the meeting of the New Jersey Public Broadcasting Authority ("NJPBA") held at the board room in the NJN Studios, 25 South Stockton Street, Trenton, New Jersey on July 23, 2009 at 2:45 p.m.

I. CALL TO ORDER – Open Public Meeting Notice *Stephanie Hoopes Halpin, Treasurer, NJPBA*

Treasurer of the NJPBA Board, Stephanie Hoopes Halpin called the meeting to order. Ms. Hoopes Halpin read the Open Public Meetings Act statement as follows: In accordance with the provisions of the Open Public Meetings Act of the State of New Jersey, notice of this meeting was filed with the Office of the Secretary of State, posted on the appropriate bulletin boards maintained for such purposes by the Authority, and distributed by press release to daily newspapers in New Jersey.

Ms. Hoopes Halpin then requested a roll call. Commissioners present and participating at the meeting were Dr. Steven Fiske, Acting Chair (via phone) mid-way into meeting; Kent Manahan; Scott Kobler; Stephanie Hoopes Halpin; Andrea Cummis; Roger Jacobs; Marshall Jones; Robert Smartt, Ethics Liaison Officer, Department of the Treasury (on behalf of State Treasurer R. David Rousseau); Also participating were Kavin K. Mistry, Deputy Attorney General; Robert Shane, Assistant Counsel, Governor's Office; Janice Selinger, NJPBA Temporary Acting Executive Director; Beatrice Jones, NJPBA Financial Manager; Sam Braun, NJPBA Controller; Rick Williams, Assistant Director of Engineering; John Blair, Director of Business Initiatives; and several NJPBA staff and special guests – Judy Goetz (taking minutes), Bill Beam, Vice President of Engineering, WABC-TV; Mary Kate Maloney, Jill Hargrave, Jeff Hamer, Eileen Gallagher and Steven Datkowitz.

Ms. Hoopes Halpin thanked everyone for participating in the meeting and welcomed the new members. She state that in this time of transition good things are coming and that we are all working in the same direction continuing what is the core of NJN and that is our great New Jersey programming.

II. APPROVAL OF MINUTES

Mr. Smartt made a motion to approve the minutes of the June 30, 2009 NJPBA Board of Commissioners meeting. Ms. Andrea Cummis seconded the motion. The minutes were approved with abstention of one member, Mr. Scott Kobler.

III. ELECTION OF OFFICERS

Mr. Smartt, on behalf of the Nominating Committee consisting of Mr. Smartt, Ms. Andrea Cummis and Mr. Ed Carman presented the slate of officers:

Stephanie Hoopes Halpin – Treasurer
Phyllis Salowe-Kaye – Second Vice Chair
Dr. Steven Fiske – First Vice Chair
Kent Manahan – Chair

Mr. Smartt made a motion to approve the Election of Officers. Mr. Kobler seconded the motion. The motion was unanimously passed.

Chair Kent Manahan thanked everyone and congratulated Dr. Fiske and Ms. Salowe-Kaye (in their absence) on their appointments to First and Second Vice Chair. Chair Manahan stated that she is looking forward to working with the Board side by side and noted that this is a first for an NJN staff person to move up the ranks to chair the Board of Commissioners.

IV. RESOLUTION APPROVING 13TH AMENDMENT TO LICENSE AGREEMENT BETWEEN THE NEW JERSEY PUBLIC BROADCASTING AUTHORITY AND THE EDUCATIONAL BROADCASTING CORPORATION

Dr. Fiske joined the meeting (via phone) during the discussion of this resolution.

RESOLUTION APPROVING 13TH AMENDMENT TO LICENSE AGREEMENT BETWEEN THE NEW JERSEY PUBLIC BROADCASTING AUTHORITY AND THE EDUCATIONAL BROADCASTING CORPORATION

WHEREAS, the New Jersey Public Broadcasting Authority (the “Authority”) was created pursuant to the New Jersey Public Broadcasting Authority Act of 1968, L. 1968, c. 405, as amended (the “Act”);

WHEREAS, the Authority and the Educational Broadcasting Corporation (“EBC”) entered into a License Agreement dated March 25, 1996 (the “License Agreement”) whereby the Authority licensed “NJN News” for rebroadcast by EBC on WNET/Thirteen and in consideration of such license to rebroadcast “NJN News,” EBC paid the Authority a license fee;

WHEREAS, the License Agreement was for an original term of one (1) year;

WHEREAS, the License Agreement has been subsequently amended twelve (12) consecutive times for one (1) year at a time;

WHEREAS, the Authority wishes to enter into a 13th Amendment to the License

Agreement (the "13th Amendment") to extend the license granted to EBC for the purposes of rebroadcasting "NJN News" on WNET/Thirteen in exchange for a fee of \$28,750 per month to be paid by EBC for the time period beginning July 1, 2009 through June 30, 2010, for a total fee of \$345,000;

WHEREAS, pursuant to Article VI, Section 2(A)(3) of the By-Laws of the Authority, all license agreements producing revenue greater than \$250,000 must be approved by the Commissioners of the Authority; and

WHEREAS, the Commissioners of the Authority wish to approve the entry into the 13th Amendment by the Authority.

NOW, THEREFORE, BE IT RESOLVED BY THE COMMISSIONERS OF THE NEW JERSEY PUBLIC BROADCASTING AUTHORITY AS FOLLOWS:

1. The Commissioners of the Authority hereby approve entry into the 13th Amendment by the Authority and approve the form of the 13th Amendment, attached hereto as Exhibit A. with such changes, insertions deletions and omissions as the Temporary Acting Executive Director shall approve, with the advice of the Attorney General of the State of New Jersey.

2. The Commissioners of the Authority authorize and delegate to the Temporary Acting Executive Director to execute and enter into the 13th Amendment and to perform any and all necessary actions and to execute any and all agreements or documents necessary in order to effectuate the 13th Amendment.

3. This resolution shall take effect immediately in accordance with the Act.

EXHIBIT A

AMENDMENT AGREEMENT

This AMENDMENT AGREEMENT entered into as of the 30th day of June, 2009 by and between EDUCATIONAL BROADCASTING CORPORATION, 450 West 33rd Street, New York, New York 10001 ("EBC"), and the NEW JERSEY PUBLIC BROADCASTING AUTHORITY, an agency of the government of the State of New Jersey, 25 South Stockton Street, PO Box 777, Trenton, New Jersey 08625-0777 ("NJPBA").

REFERENCE is made to the License Agreement dated October 25, 1996 between EBC and NJPBA with respect to the program "NJN News" (referred to herein as the "Agreement"). This is the **Thirteenth Amendment** to that Agreement.

WHEREAS, EBC and NJPBA have agreed to extend the Agreement for an additional year, subject to the terms and conditions below;

NOW, THEREFORE, EBC and NJPBA agree as follows:

1. The Term of the Agreement shall be extended for the period July 1, 2009 through June 30, 2010 ("Extended Term").

2. During the Extended Term, EBC shall pay NJPBA \$28,750 per month (the "Monthly Fee") for each month EBC airs NJN News, payable within the first ten (10) business days of the month.

3. The Agreement will be terminable by either party with five (5) days written notice. EBC will pay NJPBA a prorated portion of the Monthly Fee for each day EBC airs NJN News prior to termination of the Agreement (less than a full month).

4. NJPBA hereby licenses to EBC rebroadcast rights in the "NJN News" series of half hour programs, to be produced by NJPBA nightly Monday through Friday during the Extended Term

("Additional Programs"), subject to the rights and limitations set forth in the Agreement.

5. NJPBA will feed the "NJN News" to EBC at 5:30 P.M.

6. All other terms and conditions of the Agreement shall apply with equal force and effect during the Extended Term and with respect to Additional Programs.

**IN WITNESS WHEREOF, the parties have executed this AMENDMENT AGREEMENT
NEW JERSEY PUBLIC BROADCASTING AUTHORITY**

By: _____

Janice Selinger, Temporary Acting Executive Director

Date

EDUCATIONAL BROADCASTING CORPORATION

By: _____

Date

Janice Selinger, Temporary Acting Executive Director explained that this resolution is to extend the License Agreement between the Authority and the Educational Broadcasting Corporation (EBC or WNET) for one year.

Ms. Selinger stated that the Authority prepared its standard agreement and then NJN was told by WNET that due to the economic situation, WNET may not be able to sign an agreement for a full year; so the Authority came up with a month to month agreement. NJN just received a call from WNET stating that after August, WNET can no longer pay for NJN News but they would like to continue to air the newscast. They will pay through August. Ms. Selinger stated the importance of NJN News' presence on their air for underwriting and for additional carriage

Mr. Kobler stated that he agreed with Ms. Selinger's mission analysis. He stated that EBC is licensed in New Jersey and in New York and that NJN News has been one of their reasons, if not the largest, to preserve that license.

Mr. Smart said that the administration is extremely concerned and will look into EBC's fulfilling their license obligations to the FCC. Mr. Smartt recommended that the Board consider challenging this with the FCC.

Chair Manahan noted that this is a relationship that goes back many years.

Mr. Kobler suggested passing the resolution and sending it over to them and wait for a response. Mr. Roger Jacobs noted that there is only a five day termination requirement. Kavin K. Mistry, Deputy Attorney General said he will look into this and contact the FCC Counsel and see what the implications are. Mr. Marshall Jones questioned how hard it would be for them to change their license to New York. Chair Manahan suggested that it would be hard.

Mr. Kobler felt we should send the contractual agreement back and offer a deal of accruing a deferred liability.

Ms. Selinger, Temporty Acting Executive Director stated that NJN is getting money from CPB thru the CSG grant which WNET should be getting as well to help through tough economic issues.

Dr. Fiske joined the meeting via conference call.

It was agreed to communicate back to WNET with the Board's displeasure, extending the termination clause from 5 days to 30 days and ask for a deferred or accrued financial liability.

Chair Manahan asked for a motion to approve the resolution and amendment along with the discussed recommendations.

Ms. Hoopes Halpin made a motion to approve the resolution. Mr. Kobler seconded the motion. The motion to approve the resolution was voted upon and approved unanimously.

Ms. Manahan suggested changing the agenda and moving up the discussion on the Resolution Approving the Fiscal Year 2010 Budget while Dr. Fiske was in attendance.

V. RESOLUTION APPROVING THE FISCAL YEAR 2010 BUDGET

Commissioner Andrea Cummis left the meeting.

RESOLUTION APPROVING THE FISCAL YEAR 2010 BUDGET FOR THE NEW JERSEY PUBLIC BROADCASTING AUTHORITY

WHEREAS, the New Jersey Public Broadcasting Authority (the "Authority") was created pursuant to the New Jersey Public Broadcasting Authority Act of 1968, L. 1968, c. 405, as amended (N.J.S.A. 48:23-1 et seq.)(the "Act");

WHEREAS, pursuant to Section 1 of Article VI of the By-Laws duly adopted by the Authority on December 2, 1992, as amended (the "By-Laws"), the Commissioners of the Authority are required to approve the annual budget of the Authority;

WHEREAS, pursuant to Section 2 of Article V of the By-Laws, the Finance and Budget Committee recommends approval of the Fiscal Year 2010 Annual Budget of the Authority (the "FY2010 Budget") attached hereto as Exhibit A, authorizing a total expenditure of \$18,438,000 by the Authority during the course of Fiscal Year 2010;

WHEREAS, the Commissioners of the Authority hereby recommend to the Trustees of the Foundation for New Jersey Public Broadcasting Authority, Inc. (the "Foundation"), that the Foundation's Fiscal Year 2010 Budget include a General Grant to the Authority of \$500,000, Supplemental Grant of \$0, General Underwriting of \$1,500,000, Project Underwriting of \$1,195,000 and Radio Underwriting of \$50,000. Pursuant to the Act, these grants are to be used for the purpose of supporting and promoting the New Jersey Public Broadcasting Authority.

NOW, THEREFORE, BE IT RESOLVED BY THE COMMISSIONERS OF THE NEW JERSEY PUBLIC BROADCASTING AUTHORITY AS FOLLOWS:

1. The Commissioners of the Authority hereby approve the FY2010 Budget of the Authority, as set forth in Exhibit A attached hereto and hereby authorize the Executive Director of the Authority to take all actions necessary to implement the FY2010 Budget.
2. The Commissioners of the Authority hereby authorize the Executive Director to transmit the Commissioners' recommendations set forth above to the Foundation.
3. This resolution shall take effect immediately in accordance with the Act.

Ms. Selinger, Temporary Acting Executive Director reviewed the budget as previously distributed to the Board. Ms. Selinger stated that NJN has a balanced budget for Fiscal Year 2010. Budget savings that were found did not involve layoffs as many public television stations around the country have had to do. There are capital cost repairs in the Engineering budget. There is money for equipment repair and building and grounds and tower maintenance.

Ms. Selinger noted some revenues – the TV Food Channel revenues, savings from retirements and resignations, and from reductions in the use of the Associated Press. Ms. Selinger stated that the Authority is continuing to look for opportunities to raise additional revenues.

Ms. Hoopes Halpin stated that the Finance Committee met earlier in the morning and approved the budget with a recommendation of approval by the Board. Ms. Hoopes Halpin also stated that the Finance Committee felt that the finances were in very good order and well presented and that a lot of effort has gone into bringing down the operating expenses from last year.

It was noted that the budget forecast should be changed to a 12 month forecast (not 11 month as submitted). Also the CPB matching numbers are not reflected.

Mr. Smartt stated that the Authority is one of the few State entities which did not see their State appropriation reduced from the amount appropriated in Fiscal Year 2009.

Mr. Jones asked about the tower rental revenues set forth in the Budget. Ms. Selinger, Temporary Acting Executive Director explained that it includes a one-time revenue which is in the process of being negotiated. When an agreement is reached, it will be brought to the Board for approval.

Mr. Kobler stated that the numbers in this Budget reflect a balanced budget and a realistic budget.

Chair Manahan asked for a motion to approve the Resolution Approving the Fiscal Year 2010 Budget. Dr. Fiske made the motion to approve the resolution. Mr. Kobler seconded the motion. The motion to approve the resolution approving the Fiscal Year 2010 Budget of the Authority was voted upon and approved unanimously.

Commissioner Andrea Cummis returned to the meeting.

**VI. RESOLUTION APPROVING FREQUENCY RELOCATION AGREEMENT
BETWEEN THE NEW JERSEY PUBLIC BROADCASTING AUTHORITY,
NEXTEL FINANCE COMPANY AND RF EXTREME, LLC.**

**RESOLUTION APPROVING FREQUENCY RELOCATION AGREEMENT BETWEEN
THE NEW JERSEY PUBLIC BROADCASTING AUTHORITY, NEXTEL FINANCE
COMPANY AND RF EXTREME, LLC**

WHEREAS, the New Jersey Public Broadcasting Authority (the "Authority") was created pursuant to the New Jersey Public Broadcasting Authority Act of 1968, L. 1968, c. 405, as amended (the "Act");

WHEREAS, the Federal Communications Commission (the "FCC") has issued a series of decisions (the "FCC Decisions") requiring Sprint Nextel ("Nextel") and Broadband Auxiliary Services ("BAS") licensees to relocate certain BAS frequencies;

WHEREAS, the Authority holds BAS Licenses issued by the FCC for the operation of Incumbent Systems on the Old Channel Plan Frequencies that are subject to relocation per the FCC Decisions;

WHEREAS, Nextel's subsidiary corporation has entered into Payment and Fulfillment Management Agreements with manufacturers of equipment needed for BAS frequency relocation by which manufacturers have agreed to extend aggregate volume discounts of equipment purchased by licensees from such manufacturers;

WHEREAS, Nextel, through its subsidiary corporation, has agreed in such Payment and Fulfillment Management Agreements to directly pay the costs of all equipment to such manufacturers needed to complete the BAS frequency relocation in accordance with the FCC Decisions;

WHEREAS, RF Extreme, LLC was selected from among the various manufacturers that entered into Payment and Fulfillment Management Agreements through a competitive selection process performed by the New Jersey Department of the Treasury, Division of Purchase and Property;

WHEREAS, the Authority wishes to enter into a Frequency Relocation Agreement (the "FRA") with Nextel's subsidiary corporation and RF Extreme, LLC to effectuate the relocation of BAS frequencies in accordance with the FCC Decision through a Payment and Fulfillment Management Agreement;

WHEREAS, pursuant to the FRA, Nextel will pay all costs of effectuating the BAS frequency relocation required by the FCC Decisions;

WHEREAS, pursuant to Article VI, Section 2(A)(1) of the By-Laws of the Authority, all agreements for the purchase of capital equipment costing more than \$100,000 must be approved by the Commissioners of the Authority; and

WHEREAS, the Commissioners of the Authority wish to approve the entry into the FRA by the Authority.

NOW, THEREFORE, BE IT RESOLVED BY THE COMMISSIONERS OF THE NEW JERSEY PUBLIC BROADCASTING AUTHORITY AS FOLLOWS:

1. The Commissioners of the Authority hereby approve entry into the Frequency Relocation Agreement by the Authority with Nextel's subsidiary corporation and RF Extreme, LLC and approve the form of the Frequency Relocation Agreement, attached hereto as Exhibit A. with such changes, insertions deletions and omissions as the Temporary Acting Executive Director shall approve, with the advice of the Attorney General of the State of New Jersey.

2. The Commissioners of the Authority authorize and delegate to the Temporary Acting Executive Director to execute and enter into the Frequency Relocation Agreement and to perform any and all necessary actions and to execute any and all agreements or documents necessary in order to effectuate the Frequency Relocation Agreement.

3. This resolution shall take effect immediately in accordance with the Act.

Ms. Selinger apologized that this was presented to the Board with little notice. Ms. Selinger explained that most of the country has already done the frequency relocation. There is no cost to the Authority in connection with this matter. Nextel is picking up the expenses. Ms. Selinger stated there is some urgency on this approval because there are additional steps needed to go forward - for example, the agreement must be submitted to the Purchasing Bureau for their review and approval. This approval allows NJPBA to keep the process moving forward.

Ms. Selinger and Chair Manahan received a call from the FCC recently explaining that the Authority is one of the last stations to complete this. The Engineering Department had been working on this but it is now an urgent matter.

Rick Williams, Assistant Director of Engineering for the Authority explained that the FCC has allowed satellite companies to use a portion of the frequency (Broadcast Auxiliary Service) as well as Nextel and Sprint. The Authority needs to vacate a portion of that frequency. Nextel is going to pay the Authority to vacate that area of the spectrum and is doing the same thing nationwide with other public broadcasters.

There was Board discussion on whether the Authority would be able to charge Nextel for any time spent on this project by Authority staff.

Ms. Cummis stated that as part of this project, Nextel will reimburse the Authority for administrative expenses and fees, including legal counsel fees. The Board wanted to make sure that the Authority was receiving any money due money from Nextel for this project.

Mr. Kobler stated that if other stations are getting money from this project, we need to get money from this project. Ms. Hoopes Halpin stated that the Authority should not negotiate for something that is beneath industry standard.

Mr. Williams stated that the deadline to move this along is September 2009 and that of not doing so is that the Authority will not be able to do any live broadcasting. Part of this project involves some necessary equipment purchases.

Ms. Cummis stated that she thought the Authority should go ahead with the purchase of the equipment and keep track of expenses.

Ms. Hoopes Halpin thought this would be very valuable to Nextel in order to complete the project and the Authority should negotiate accordingly.

It was later determined (research during the meeting) that the Authority had submitted costs to Nextel for reimbursement and all costs for labor, legal and equipment were being covered by Nextel. There would be no cost to the Authority. Rick Williams and Bruce Wortmann will work together to track the costs of this project.

Chair Manahan requested a motion to approve the Resolution Approving Frequency Relocation Agreement Between the New Jersey Public Broadcasting Authority, Nextel Finance Company and RF Extreme, LLC. Ms. Cummis made a motion to approve the resolution. Ms. Hoopes Halpin seconded the motion. The motion to approve the resolution was voted upon and approved unanimously.

VII. RESOLUTION APPROVING THE APPOINTMENT OF AN INTERIM TEMPORARY ACTING EXECUTIVE DIRECTOR DURING THE ABSENCE OF THE TEMPORARY ACTING EXECUTIVE DIRECTOR.

Ms. Selinger explained that unless the Authority changes its by-laws (which we may do this year) this is what must be done when the Temporary Acting Director is out of State in order to have someone in charge.

RESOLUTION APPROVING THE APPOINTMENT OF AN INTERIM TEMPORARY ACTING EXECUTIVE DIRECTOR DURING THE ABSENCE OF THE TEMPORARY ACTING EXECUTIVE DIRECTOR

WHEREAS, the New Jersey Public Broadcasting Authority (the "Authority") was created pursuant to the New Jersey Public Broadcasting Authority Act of 1968, L. 1968, c. 405, as amended (the "Act");

WHEREAS, pursuant to Section 5 of the Act, the Commissioners of the Authority appoint the Executive Director of the Authority, subject to the approval of the Governor of the State;

WHEREAS, on June 30, 2009, the Commissioners of the Authority appointed Janice Selinger, Deputy Executive Director for Production and Acting Chief Operating Officer serve as Temporary Acting Executive Director during the absence of an Acting Executive Director until such time as an Acting Executive Director is appointed by the Commissioners of the Authority;

WHEREAS, the By-Laws of the Authority does not provide guidance as who can serve in

place of the Executive Director during the absence of the Executive Director;

WHEREAS, in the absence of clear guidance in the By-Laws and the desire to provide for the orderly continuation of the activities and functions of the Authority, the Commissioners of the Authority wish to provide for an Interim Temporary Acting Executive Director to perform the duties of the Temporary Acting Executive Director during the absence of the Temporary Acting Executive Director;

WHEREAS, the Commissioners of the Authority wish to provide that John Blair serve as Interim Temporary Acting Executive Director during the absence of the Temporary Acting Executive Director; and

NOW, THEREFORE, BE IT RESOLVED BY THE COMMISSIONERS OF THE NEW JERSEY PUBLIC BROADCASTING AUTHORITY AS FOLLOWS:

1. The Commissioners of the Authority hereby appoint John Blair to serve as Interim Temporary Acting Executive Director during the absence of the Temporary Acting Executive Director. Prior to an absence of the Temporary Acting Executive Director, the Temporary Acting Executive Director shall notify the Commissioners of the Authority of the dates which the Temporary Acting Executive Director will be absent from the Authority.
2. The Interim Temporary Acting Executive Director shall have all of the powers and perform all the duties of Temporary Acting Executive Director during the absence of the Temporary Acting Executive Director. Upon the return of the Temporary Acting Executive Director, the Interim Temporary Acting Executive Director shall relinquish all duties and responsibilities of the Temporary Acting Executive Director.
3. This resolution shall take effect immediately in accordance with the Act.

Dr. Fiske made a motion to approve the Resolution approving the Appointment of an Interim Temporary Acting Executive Director During the Absence of the Temporary Acting Executive Director. Ms. Cummis seconded the motion. The motion to approve the resolution was voted upon and approved unanimously.

VIII. EXECUTIVE SESSION

Mr. Kobler made a motion to move into Executive Session. The motion was seconded by Dr. Fiske. The motion was approved unanimously.

Stephanie Hoopes Halpin made a motion to exit Executive Session. The motion was seconded by Scott Kobler. The motion was approved unanimously. The public portion of the meeting resumed.

Ms. Selinger, distributed a budget for money allocated to the Authority from the Frequency Relocation Agreement.

IX. ADJOURNMENT

Mr. Kobler made a motion to adjourn the meeting. Ms. Hoopes Halpin seconded the motion. The motion was voted upon and approved unanimously. The meeting was adjourned at 5:30 p.m.

